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September 12, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

In the Matter of:

Equal Access and Interconnection
Obligations Pertaining to
Commercial Mobile Radio Services

CC Docket No. 94-54

Dear Mr. Caton:

Enclosed for filing are the original and nine copies (9) of Cincinnati Bell Telephone Company's Comments in the above captioned proceeding.

Also provided is a duplicate of this letter and the enclosures. Please date stamp and return this duplicate as acknowledgement of its receipt.

Questions regarding these comments should be addressed to Mrs. Lynda M. Breen, (513) 397-1265 or faxed to her at (513) 241-9115.

Sincerely,

Cheryl N. Campbell

Enclosures
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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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COMMENTS

I. Introduction.

On July 1, 1994, the Commission released a Notice of Proposed Rulemaking and Notice of Inquiry ("NPRM") in this docket.¹ The NPRM seeks comment on the following three issues: (1) whether to impose equal access obligations upon commercial mobile radio service ("CMRS") providers, (2) whether rules should be adopted to govern requirements for interconnection service provided by local exchange carriers ("LECs") to CMRS providers, and (3) whether to propose rules requiring CMRS providers to interconnect with each other.²

Cincinnati Bell Telephone Company ("CBT"), as a LEC, would be affected by any rules governing requirements for interconnection service provided by LECs to CMRS providers. CBT hereinafter offers its comments on the need for such rules and demonstrates that the current system of negotiated agreements should be retained.

¹Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, Notice of Proposed Rulemaking and Notice of Inquiry, CC Docket No. 94-54, FCC 94-145, released July 1, 1994.

²NPRM at para. 1.

II. The Current System Of Negotiated Agreements Should Be Retained.

A. Safeguards Are Already In Place To Protect CMRS Providers

Interconnection arrangements with CMRS providers are currently established on the basis of individually negotiated contracts. This system has successfully provided cellular carriers with the flexibility to structure an interconnection arrangement that meets their individual needs. As the CMRS marketplace evolves and new carriers enter the market (particularly PCS providers), the variety of interconnection arrangements and system designs will make flexibility even more necessary. The rigid framework of a tariff is simply inappropriate to a marketplace where tailored service arrangements are so important.

In addition to being overly rigid, tariffs are not needed to ensure reasonable and nondiscriminatory rates, terms and conditions. Pursuant to the Interconnection Order³ and the CMRS Second Report,⁴ LECs are already obligated to provide the type of interconnection reasonably requested by the CMRS provider at reasonable rates and on reasonable, nondiscriminatory terms and conditions. The cellular carriers are generally satisfied with the current system of negotiated agreements,⁵ and there is no reason to believe that new market entrants will feel otherwise. If a new entrant has difficulty obtaining a good faith agreement from the LEC, the complaint process under Section 208 or 312 of the Communications Act is always available.

³Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, Declaratory Ruling, 2 FCC Rcd 2910 (1987) ("Interconnection Order").

⁴Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services, Second Report and Order, GN Docket No. 93-252, 9 FCC Rcd 1411 (1994) ("CMRS Second Report").

⁵NPRM at para. 112, 114.

Other existing safeguards also mitigate against changing the current system. Pursuant to regulations of the Public Utilities Commission of Ohio ("PUCO"), CBT's negotiated agreements with cellular carriers are filed with the PUCO and are regulated by the PUCO. The nondiscrimination requirements of the CMRS Second Report, together with existing state regulation, provide new entrants with the protection of a tariff while maintaining the flexibility necessary to meet particular interconnection needs.

B. The Commission's Proposed Safeguards Are Unnecessary To Ensure Reasonable, Nondiscriminatory Rates, Terms And Conditions

The Commission seeks comment on whether, in lieu of imposing a tariff filing obligation, it should require "most favored nation" clauses in negotiated agreements or require LECs to file its interconnection agreements with the Commission.⁶ The first safeguard -- most favored nation clauses -- is not workable when each agreement is tailored to the particular customer. Each CMRS agreement is likely to contain specific terms and conditions that may not be appropriate for other CMRS providers, thus making it difficult to determine which negotiated arrangement is the most "favorable" and therefore must be granted to every other CMRS provider. The second safeguard -- filing agreements with the Commission -- would not provide any additional protection to new entrants because CBT's agreements are already reviewed by and regulated by the PUCO.

⁶NPRM at para. 119. A most favored nation clause is a contract provision whereby the most favorable terms and conditions negotiated with one party must be offered to all other contracting parties.

C. Retaining The Current System Is Not Inconsistent With Other Commission Interconnection Policies

The Commission also seeks comment on whether retaining the current system of negotiated agreements would be inconsistent with other Commission policies requiring interconnection arrangements to be tariffed.⁷ CBT submits that no such inconsistency is present. For example, the Commission has recently decided that "microwave interconnection must be so tailored to specific interconnectors and to particular central offices that it does not readily lend itself to uniform tariff arrangements."⁸ The same logic applies to interconnection with CMRS providers, where tailored, customer-specific arrangements are required.

III. Conclusion.

The current system of negotiated interconnection arrangements has provided cellular carriers with the flexibility they need, has been generally approved by CMRS providers, and does not readily lend itself to tariffing. In addition, safeguards are already in place to ensure reasonable, nondiscriminatory interconnection arrangements. For the reasons stated herein, CBT

⁷NPRM at para. 118.

⁸Expanded Interconnection with Local Telephone Company Facilities, Memorandum Opinion and Order, CC Docket No. 91-141, FCC 94-190, released July 25, 1994, at para 84.

urges the Commission to retain the current system of negotiated interconnection agreements between LECs and CMRS providers.

Respectfully submitted,

FROST & JACOBS

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Dated: September 12, 1994

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